CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	Force	☑ Discourt.	☐ U.S.
Patrick Browne		Squad #8	201602041	✓ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Sunday, 11/29/2015 4:30 AM		In front of § 87(2)(b)		28	5/29/2017	5/29/2017
Date/Time CV Reported		CV Reported At:	How CV Reported:	: Date/Time	Received at CCR	lB
Wed, 03/09/2016 1:20 PM		CCRB Mail		Wed, 03/09/2016 1:20 PM		
Complainant/Victim	Type Home Address					
Witness(es) Home Address						
Subject Officer(s)	Shield	TaxID	Command			
1. LT Douglas Kautter	00000	935093	070 PCT			
Witness Officer(s)	Shield N	o Tax No	Cmd Name			
1. POM Matthew Meister	12882	952001	028 PCT			
Officer(s)	Allegation Investigator Recommendation					
A.LT Douglas Kautter	Abuse: Lieutenant Douglas Kautter stopped 887(2)(b)					
B.LT Douglas Kautter	Abuse: Lieutenant Douglas Kautter frisked § 87(2)(b)					
C.LT Douglas Kautter	Abuse: Lieutenant Douglas Kautter searched (8) (2)					
D.LT Douglas Kautter	Discourtesy: Lieutenant Douglas Kautter spoke discourteously to § 87(2)(6)					
E.LT Douglas Kautter	Abuse: Lieutenant Douglas Kautter frisked § 87(2)(b)					

Case Summary

There is no video footage associated with this incident. At approximately 4:51 a.m. on November was standing outside the entrance of §87(2)(b) Manhattan, which is a NYCHA facility where he resides. As he waited for his sister, \$87(2)(b) two officers—identified through investigation as Lieutenant Douglas Kautter and Police Officer Matthew Meister of the 28th Precinct—approached. Lt. Kautter questioned him about his activities before frisking him for weapons (Allegations A and B). Amidst the frisk, Lt. Kautter allegedly inserted part of his hand into one of \$87(2)(b) s pockets (Allegation C), though he did not remove any objects. §87(2)(b) verbally protested the frisk by stating that he did not consent to such, allegedly prompting Lt. Kautter to state, "Shut the fuck up, you can't tell me what to fucking do" (Allegation D). Amidst further conversation and protest from Lt. Kautter allegedly also stated, "Shut the fuck up, you don't know shit," "I can do whatever the fuck I want," and "I don't give a fuck where you work," (subsumed within Allegation D). \$37(2)(b) was asked for and provided identification, after which Lt. Kautter allegedly frisked him a second time (Allegation E), again without recovering any objects. The officers ultimately departed without arresting or summonsing \$87(2)(b) § 87(2)(b) this complaint on March 9, 2016, over four months after the incident occurred. He stated that the delay was due to a busy work schedule and a need to explore his options as to how best handle the situation.

Mediation, Civil and Criminal Histories

- Because §87(2)(b) refused to mediate, this case was investigated.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of June 2, 2016, no notice of claim has been filed with the City of New York related to this incident (see Board Review #2).

Civilian and Officer CCRB Histories

- Lt. Kautter has been a member of the NYPD for three years and has been a subject in one prior CCRB case involving one allegation, which was closed as complainant uncooperative (see Board Review #3). §87(2)(9)
- This is the first CCRB complaint filed by \$87(2)(b) (see Board Review #4).

Findings and Recommendations

Explanation of Subject Officer Identification

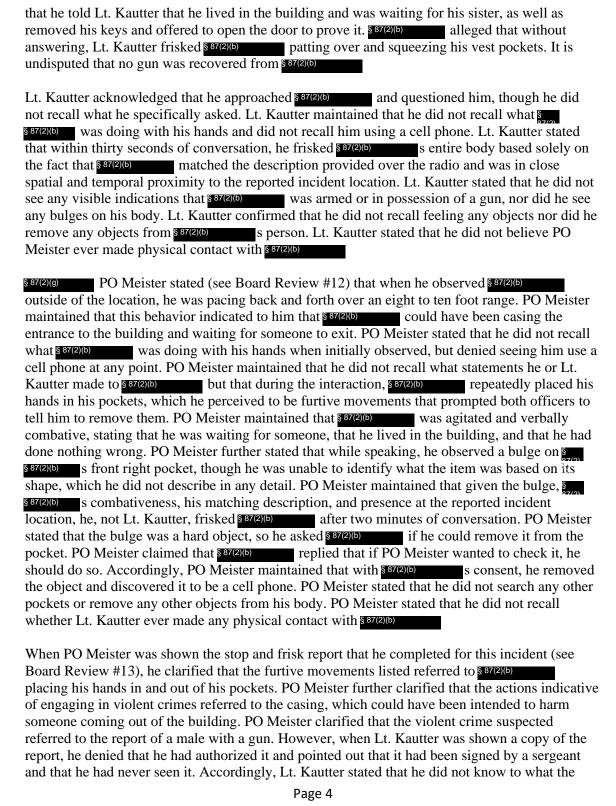
described the officer who stopped, questioned, frisked, searched, and spoke discourteously to him as a uniformed white male in his late thirties or early forties who stood 5'9", had short black hair, had a mole on his face, and was the passenger of the vehicle. He described the witness officer as a uniformed light-skinned Asian or Hispanic male in his thirties who stood 5'6" to 5'7", had short black hair, and was the driver of the vehicle.

It is undisputed that the two officers who arrived and interacted with were Lt. Kautter and PO Meister. It is also undisputed that PO Meister was the driver of the vehicle and that Lt. Kautter was the passenger. As both Lt. Kautter and PO Meister are white males, neither

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officer fits the description of Asian or Hispanic. Additionally, although Lt. Kautter has brown hair, PO Meister has red hair, which does not match the description of either officer.
Nevertheless, Lt. Kautter (see Board Review #5) is a ser(2)(b) year old, stands 5'11", and has a mole on his right chin, which is distinguishable from PO Meister (see Board Review #6), who is
years old and stands 5'4" with no obvious moles. \$87(2)(9)
Allegation A—Abuse of Authority: Lieutenant Douglas Kautter stopped In his CCRB statement (see Board Review #7), \$\frac{87(2)(b)}{2}\$ acknowledged that at the time of the incident, he was wearing dark navy blue pants, black sneakers, a black vest, and a multicolored striped shirt. As reflected in the EVENT Report (see Board Review #8), it is undisputed that after a 911 call of a male at wearing all black and waving a gun in the air was transmitted over the radio, Lt. Kautter (see Board Review #9) stopped outside of \$\frac{87(2)(b)}{2}\$ outside of utility outside of the transmission first occurred at 4:51 a.m. and that the stop occurred at 4:53 a.m., two minutes later. A map of the area (see Board Review #10) shows that \$\frac{87(2)(b)}{2}\$ and \$\frac{87(2)(b)}{2}\$ is located between \$\frac{87(2)(b)}{2}\$ and \$\frac{87(2)(b)}{2}\$ is located
A police radio transmission that relays a general description of a perpetrator provides reasonable suspicion to stop an individual who matches that description and is in close spatial and temporal proximity to the reported crime. People v. Holland, 4 A.D.3d 375 (2 nd Dept. 2004) (see Board Review #11).
§ 87(2)(g)
& R7/2\/h\
Allegation B—Abuse of Authority: Lieutenant Douglas Kautter frisked \$87(2)(6) stated that while he was standing still outside of \$87(2)(6) he resided, he was using his cell phone and waiting for his sister, \$87(2)(6) denied that he was in possession of a gun or any other weapon, and acknowledged carrying only a wallet and keys in waist pockets, which did not create any visible bulges. \$87(2)(6) alleged that during his wait, Lt. Kautter and PO Meister stopped their vehicle and approached, at which point Lt. Kautter asked him what he was doing there.
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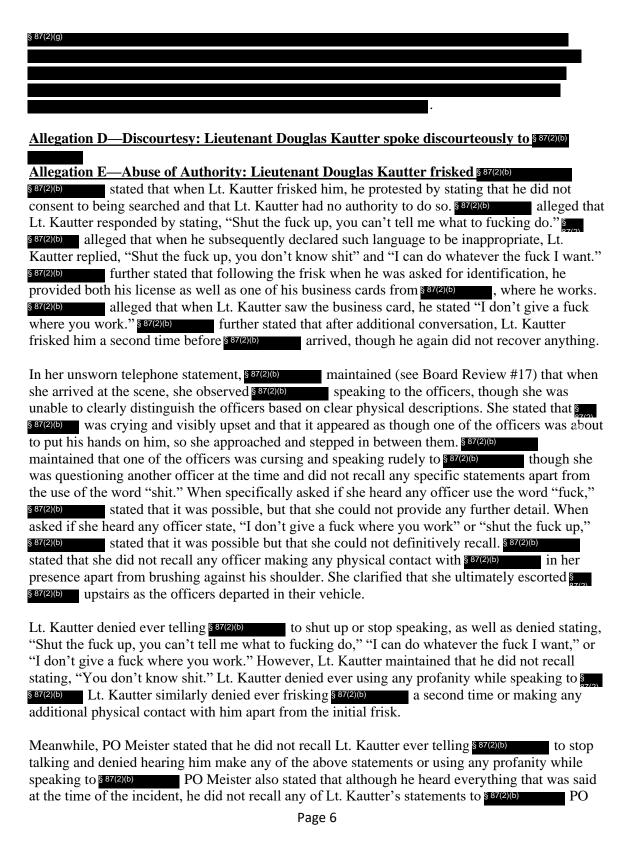


furtive movements, actions indicative of casing, actions indicative of engaging in violent crimes, or violent crime suspected referred. Lt. Kautter similarly did not recall seeing a suspicious bulge or recall any cell phone being involved in this incident.

A report of possession of a gun, alone, without any urgency to act or indication of dangerous or criminal use or potential for such will not authorize a frisk or search unless information gained from a prior inquiry supports it. People v. La Pene, 49 A.D.2d 604 (1976) (see Board Review #14). Furthermore, even when officers encounter a suspect who matches a radio description, the presence of an undefined bulge in a pocket, unlike a waistband bulge or one in the shape of a gun, is considered innocuous and does not provide the basis for a frisk. People v. David B., 172 A.D.2d 828 (2nd Dept. 1991) (see Board Review #15).

30 (2)(3)
Allegation C—Abuse of Authority: Lieutenant Douglas Kautter searched \$87(2)(b) In his initial written complaint (see Board Review #16), \$87(2)(b) s attorney wrote that following the initial frisk, Lt. Kautter searched all of \$87(2)(b) s pockets without recovering anything. However, during his CCRB statement, \$87(2)(b) stated that amidst the frisk, Lt. Kautter inserted part of his hand into his right pocket, though there was nothing inside of it and he consequently did not remove anything. \$87(2)(b) did not report any additional search.
Although Lt. Kautter acknowledged frisking \$87(2)(b) he stated that he did not recall ever entering any of the pockets. Lt. Kautter confirmed that he did not remove any objects from \$37(2)(b) As previously mentioned, PO Meister stated that he did not recall whether Lt. Kautter ever made any physical contact with \$87(2)(b)

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§ 87(2)(g)			
Squad:			
Investigator: _	Signature	Print	Date
Squad Leader: _	Title/Signature	Print	Date
Reviewer:	Title/Signature	Print	Date

Meister denied frisking or seeing Lt. Kautter ever frisk §87(2)(6) a second time and PO Meister did not recall Lt. Kautter ever making physical contact with him.

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